

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation into the ratemaking implications for Pacific Gas and Electric Company (PG&E) pursuant to the Commission's Alternative Plan for Reorganization under Chapter 11 of the Bankruptcy Code for PG&E, in the United States Bankruptcy Court, Northern District of California, San Francisco Division, In re Pacific Gas and Electric Company, Case No. 01-30923 DM.

Investigation 02-04-026
(Filed April 22, 2002)

**SCOPING MEMO AND RULING
OF ASSIGNED COMMISSIONER**

Pursuant to Article 2.5 of the Commission's Rules of Practice and Procedure (Rules), this Scoping Memo and Ruling addresses (1) issues, (2) categorization, (3) schedule, (4) hearing, (5) final oral argument, (6) intervenor compensation, and (7) Article 2.5.

1. Issues

The issues are stated in the preliminary scoping memo within the Order Instituting Investigation (OII). Parties filed and served comments on May 10, 2002, and reply comments on May 22, 2002. Based on this information, the issues to be addressed in this proceeding are:

- a. The ratemaking implications for Pacific Gas and Electric Company (respondent) of the Commission's alternative Plan of Reorganization (POR) for respondent pursuant to Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court, Northern District of California, San Francisco Division (In re Pacific Gas and Electric Company, Case

No. 01-30923 DM), and whether or not the resulting rates are just and reasonable.

- b. Any other matters that need to be decided by the Commission in implementing the Commission's POR.

2. Categorization

The Commission categorized this proceeding as ratesetting. (Rule 6(c)(1); OII, page 2.) Persons had ten days to appeal. (OII, Ordering Paragraph 2, page 4.) No appeals were filed. The categorization of this proceeding is ratesetting.

3. Schedule

The adopted schedule is shown in Attachment A. The schedule is based on there being no hearing. If motion is made and granted for hearing (as discussed more below), a revised schedule will be included with the ruling granting the motion.

By the date in the adopted schedule, Energy Division will file and serve one or more declarations. The declaration(s) will address the issues: the ratemaking implications of the Commission's POR, whether or not the resulting rates are just and reasonable, and any other matters that need to be decided by the Commission to implement the Commission's POR.

Parties may file comments on the declaration(s). Comments shall be filed and served by the date in the adopted schedule.

The goal is to complete this proceeding by October 22, 2003 (18 months from initiation of this proceeding). In no event, however, will resolution exceed 18 months from the date the investigation was filed, pursuant to Senate Bill 960, Section 13.

4. Hearing

The OII states that “the Commission may hold hearings.” (Rule 6(c)(1); OII, page 2.) Hearings will be held if a motion is made and granted, as provided below.

A motion for hearing must be filed and served by the date shown in the attached schedule. A motion shall state (1) the specific item or issue addressed in a declaration for which hearing is sought (e.g., disputed issue of material fact), (2) citation to the item or issue, (3) justification for hearing (e.g., why the disputed fact is material), (4) what the moving party would seek to demonstrate through hearing, (5) the evidence the party would seek to introduce at hearing, (6) a proposed schedule, and (7) anything else necessary for the purpose of making an informed ruling on the motion. Any right a party may otherwise have to a hearing is waived if the party does not file and serve a timely motion requesting hearing.

A response to any such motion may be filed and served. A response must be filed and served by the date shown in the attached schedule.

The record will be composed of all filed and served documents, including comments filed May 10, 2002, reply comments filed May 22, 2002, declaration(s), and comments parties file on the declaration(s). If hearing is held, the record will also include evidence received at hearing.

5. Final Oral Argument

A party in a ratesetting proceeding has the right to make a final oral argument before the Commission, if the final oral argument is requested within the time and manner specified in the Scoping Memo or later ruling. (Rule 8(d).) Parties shall use the following procedure for requesting final oral argument.

Any party seeking to present final oral argument shall file and serve a motion by the date specified in the attached schedule. The motion shall state the request, the subject(s) to be addressed, the amount of time requested, recommended procedure and order of presentations, and anything else relevant to the motion. The motion shall contain all the information necessary for the Commission to make an informed ruling on the motion, providing for an efficient, fair, equitable, and reasonable final oral argument. If more than one party plans to move for final oral argument, parties shall use their best efforts to present a joint motion, including a joint recommendation on procedure, order of presentations, and anything else relevant to the motion. A response to the motion may be filed, and shall be filed and served by the date in the adopted schedule.

If a final determination is subsequently made that no hearing is required, Rule 8(d) shall cease to apply, along with a party's right to make a final oral argument. The following events will be the final determination that no hearing is required: if no motion for hearing is filed by the deadline in the adopted schedule for such motion, or upon a ruling that denies a motion for hearing.

6. Intervenor Compensation

A customer who intends to seek an award for intervenor compensation must file and serve a Notice of Intent to Claim Compensation within 30 days after the prehearing conference (PHC), or, if no PHC is held, as determined by the Commission. (Pub. Util. Code § 1804(a)(1).) No PHC has been held in this proceeding, and none is scheduled.

Absent a PHC, this ruling will begin the 30-day period. A customer who intends to seek an award of compensation may file and serve a Notice of Intent to Claim Compensation, and that Notice must be filed and served no later than 30 days from the date of this ruling.

7. Article 2.5

The rules and procedures in Article 2.5 currently apply, and will continue to apply if hearing is held. Article 2.5 will cease to apply, however, upon a final determination that no hearing is needed. (Rule 6.6.) If no motion is made for hearing by the deadline in the adopted schedule, Article 2.5 shall cease to apply beginning the next day. If motion for hearing is made but denied, Article 2.5 shall cease to apply beginning the day after the ruling denying the motion for hearing. The matters covered in this Scoping Memo, however, shall continue to apply. (Rule 6.6.)

Ex parte communication in a ratesetting proceeding is govern by Rule 7(c). The provisions of Rule 7(c), including reporting requirements under Rule 7.1, cease to apply, and ex parte communications will be permitted, should there later be a final determination that a hearing is not needed. (Rule 7(e).) If no motion is made for hearing by the deadline in the adopted schedule, ex parte communications shall be permitted beginning the next day. If motion for hearing is made but denied, ex parte communication shall be permitted beginning the day after the ruling denying the motion for hearing.

IT IS RULED that:

1. The issues and schedule are as set forth in the body of this ruling and in Attachment A.

2. The categorization of this proceeding is ratesetting for the purpose of Article 2.5 of the Commission's Rules of Practice and Procedure (Rules).

3. By the date in the adopted schedule, Energy Division shall file and serve one or more declarations that address the issues stated in the body of this Ruling. Parties may file and serve comments on the declaration(s). Comments shall be filed and served no later than the date in the adopted schedule.

4. No hearing shall be held unless a motion for hearing is made and granted. A motion for hearing shall contain the information stated in the body of this Ruling, and shall be filed and served by the date stated in the adopted schedule. Any right a party has to a hearing shall be waived if the party does not file and serve a motion requesting hearing by the date for such motion in the adopted schedule. A response to a motion for hearing may be filed and served, and shall be filed and served by the date in the adopted schedule.

5. The record shall be composed of all filed and served documents and, if hearing is held, all evidence received at hearing.

6. A party may request final oral argument and, in making that request, shall follow the procedure provided in the body of this Ruling. If a final determination is subsequently made that no hearing is required, Rule 8(d) of the Rules shall cease to apply, along with a party's right to make a final oral argument. The final determination that no hearing is required shall result if no motion for hearing is filed by the deadline in the adopted schedule for such motion, or upon a ruling that denies a motion for hearing.

7. A customer who intends to seek an award of intervenor compensation shall file and serve a Notice of Intent to Claim Compensation no later than 30 days from the date of this Ruling.

8. Article 2.5 of the Rules shall cease to apply upon a final determination that no hearing is needed. The determination shall be as described in the body of this Ruling. If Article 2.5 ceases to apply, the matters covered in this Scoping Memo and Ruling shall continue to apply.

Dated July 17, 2002, at San Francisco, California.

/s/ MICHAEL R. PEEVEY
Michael R. Peevey
Assigned Commissioner

ATTACHMENT A

**SCHEDULE
I.02-04-026**

DATE	EVENT
April 22, 2002	Order Instituting Investigation
May 10	Comments filed and served
May 22	Reply Comments filed and served
May 31	Ruling Regarding Service List
July 17	Scoping Memo and Ruling filed and served
July 24	Declaration(s) filed and served
August 2	Comments filed and served on declaration(s)
August 2	Motion for hearing filed and served
August 7	Response to motion for hearing filed and served
August 12	Notice of Intent to Claim Intevenor Compensation filed and served
September 9	Projected submission date
No later than 20 days after draft decision is filed and served	Motion for final oral argument
No later than 25 days after draft decision is filed and served	Response to motion for final oral argument

(END OF ATTACHMENT A)

CERTIFICATE OF SERVICE

I certify that I have by mail and by e-mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner on all parties of record in this proceeding or their attorneys of record.

Dated July 17, 2002, at San Francisco, California.

/s/ JEANNIE CHANG

Jeannie Chang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.